

## REMARKS

### Remarks / Arguments

Reconsideration of this application as amended, and withdrawal of the rejections set forth in the Office Action dated October 01, 2008, are respectfully requested.

In the Office Action, claims 1-53 and 56-108 are pending and rejected.

In this response, no claim has been cancelled. Claims 1, 29, 56 and 86 have been amended. No new matter has been added. Thus, claims 1-53, and 56-108 remain pending.

### **35 U.S.C. § 102 Rejections**

Claims 29-30, 34-48, 86-87, 89-103 are rejected under 35 U.S.C. §102(e) as being anticipated by Buxton (Pub. No. US 2003/0204856 A1, hereinafter "*Buxton*"). Applicants do not admit that the above reference is prior art and reserve the right to challenge this reference at a later date.

To anticipate a claim, a reference must teach each and every element of the claim. In the present case, independent claim 29 recites:

29. A distributed media distribution system comprising:
  - a plurality of clients having peer-to-peer connectivity to one another;
  - at least one server for processing a request from a first client for a particular media item, for determining a second client who has an encrypted copy of the desired media item at the server, for arranging transfer of the encrypted copy of the desired media item from the second client to the first client;
  - a media pass server for granting a media pass to the first client allowing access to the desired media item, and for providing a decryption key to the first client based on the media pass submitted by the first client, **wherein the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass:**

a client rendering device for decrypting the desired media item for use by an authorized user at the first client. (*Emphasis added*)

Independent claim 86 recites:

86. A distributed media distribution system comprising:
  - a plurality of clients having peer-to-peer connectivity to one another;
  - at least one server for processing a request from a first client for a particular media item, for determining a second client who has a protected copy of the desired media item at the server, and for arranging transfer of the protected copy of the desired media item from the second client to the first client;
  - a media pass server for granting a media pass to the first client allowing access to the desired media item, and for providing a decryption key to the first client based on the media pass submitted by the first client, **wherein the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass;**
  - a client rendering device for storing a protected copy of the desired media item at the first client and rendering the desired media item to an authorized user at the first client. (*Emphasis added*)

Applicants respectfully submit that *Buxton* does not teach each and every element of the independent claims 29 and 86.

### Cited Reference

*Buxton* discloses an apparatus and method for effecting a distributed video on demand system in a local data network. A number of local processing units within the local network are utilized. A database server in communication with local data network is further included for directing streamed delivery of the video data from certain local processing units storing video

data to other local processing units in the local network that are requesting playback of the video data. (See Abstract).

*Buxton* discloses that its transaction processing server 120 is configured to determine whether a user-subscriber is authorized to receive the movie streamed either from other local processing units or from the back-up media server 118. Also, the transaction processing server 120, at the direction of the database server 104, may transmit a key code to the requesting user to allow a local processing unit to begin streaming the requested movie data. See *Buxton* paragraph [0032] and [0033]. Further, the Office Action interprets that when a user-subscriber has been determined as having authorization for view a requested movie, the user is deemed having been granted a media pass (see Office Action page 32).

However, *Buxton* does not teach or suggest that such authorization containing business rules for viewing a media item. Nor does *Buxton* teach or suggest such authorization with its business rules being first transmitted to a user-subscriber, and later being submitted by the user-subscriber to the transaction processing server for obtaining a key code. Further, *Buxton* does not teach or suggest that the key code is provided based on a satisfactory evaluation of the business rules in the media pass.

### **Reference distinguished**

To anticipate a claim, a reference must teach each and every element of the claim.

Claims 1, 29, 56 and 86 substantially recite that "the media pass contains business rules for viewing the desired media item, and the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass." As described above, *Buxton* does not disclose a media pass containing business rules for viewing the desired media item, and a decryption key that is provided based on a satisfactory evaluation of the business rules in the media pass.

Therefore, at least for this and potentially other reasons, claims 29 and 86 are not anticipated by *Buxton*. Thus, claims 30, 34-48 are allowable at least for depending from an allowable base claim 29, and claims 87, 89-103 are allowable at least for depending from an allowable base claim 86, and potentially for other reasons as well.

Claim 46 further recites:

46. The system of claim 29, wherein the server arranges for the transfer by scheduling the transfer of the encrypted copy to occur at a particular time.

Paragraph [0031] of *Buxton*, as indicated in page 5, item 19 of the Office Action, discloses that the distributed database movie server selectively pushes certain movies in a time period whereas lesser viewed movies genres may remain stored on the backup media server. Further, page 33 of the Office Action interprets *Buxton* as "prioritizing to deliver the frequently viewed movies before delivering the lesser viewed movie." However, the prioritized copies of media items are predicted by *Buxton*'s server as being frequently viewed by users. These copies of media items are not pushed to the clients based on client's requests. Therefore, *Buxton* does not disclose its distributed database server scheduling the transfer of the encrypted copy (of the **desired** media item that is requested by a first client) to occur at a particular time. Thus, at least for this and other reasons, claim 46 is not anticipated by *Buxton*.

Accordingly, Applicants respectfully submit that the invention claimed in claims 29-30, 34-48, 86-87, 89-103 are not anticipated by *Buxton* under 35 U.S.C. § 102(e), and respectfully request the withdrawal of the rejections of the above claims.

### **35 U.S.C. § 103 Rejections**

Claims 1-5, 7-22, 25-28, 52-53 and 107-108 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* in view of Harris III et al. (Pub. No. US 2004/0267812, hereinafter "*Harris*").

Claims 32-33, 49-51, 56-57, 59-85 and 104-106 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* in view of Kleinpeter III et al. (US Patent No. 6,907,463, hereinafter "*Kleinpeter*").

Claims 31 and 88 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* in view of *Schleicher et al* (US Pub. No. US 2002/0138576, hereinafter "*Schleicher*").

Claims 6 and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* in view of *Harris and Kleinpeter*.

Claim 58 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* and further in view of *Kleinpeter* and *Schleicher*.

Applicants do not admit that the above references are prior art and reserve the right to challenge these references at a later date.

### Cited References

*Harris* discloses a system and method for enabling integration of multiple media providers with a media player. The system and method enables multiple media providers to customize a media player to allow access, enable use, and control use of its media through the media player. See Abstract.

However, *Harris* does not disclose providing a decryption key based on a media pass, as substantially recited in claim 1.

*Kleinpeter* discloses a method to exchange files between users in a network environment. This method includes the steps of executing a software agent on multiple users' computing systems. These software agents establish a connection from their respective computing systems when logging into a network environment. An agent server, executed on the network environment, directs the software agents to establish direct connection between their respective computing systems in response to file requests from various users. See Abstract.

Further, *Kleinpeter* discloses using digital signatures to encrypt instructions transmitted between servers and user computer (See *Kleinpeter* page 2, lines 28-31). However, *Kleinpeter* does not disclose providing a decryption key to the user computer based on a media pass, as substantially recited in claims 1, 29, 56 and 86.

*Schleicher* teaches a method and a system for generating revenue in a peer-to-peer file delivery network that includes a server node and client nodes. Subscription-based content may be made available for free or for a fee. If the content is fee-based, then a fee may be charged to the users for receiving or opening the fee-based content. The fee charged may be in addition to, or in lieu of, the fee charged to the providers of the subscription-based content. See Abstract.

*Schleicher* discloses using a public key to decrypt digital signature of a file in order to authenticate both the file and its publisher. See *Schleicher* page 4, paragraphs [0045]-[0046]. However, *Schleicher* does not disclose providing a decryption key to the first device based on a media pass, as substantially recited in claims 29 and 86.

## References distinguished

To establish a *prima facie* case of obviousness required for a §103 rejection, the references must teach or suggest all the claim limitations.

Claims 1-5, 7-22, 25-28, 52-53 and 107-108 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* in view of *Harris*.

With respect to independent claim 1 and its dependent claims 2-5, 7-22 and 25-28, claim 1 recites:

1. A method for distributing media comprising:  
receiving at a server a request from a first client for a particular media item, said first client having broad band connectivity to other clients;  
at the server, determining a second client who has an encrypted copy of the desired media item;  
**in response to the request**, transferring the encrypted copy of the desired media item from the second client to the first client;

after the encrypted copy has been transferred to the first client, indicating at the first client that the desired media item is now available;

in response to receiving payment authorization from the first client, granting from a media pass server a media pass to the first client, **wherein the media pass contains business rules for viewing the desired media item;**

providing a decryption key to the first client for decrypting the desired media item, **wherein the decryption key is provided based on a satisfactory evaluation of the business rules in the media pass.**

*(Emphasis added)*

As discussed above, *Buxton* does not disclose a media pass containing business rules for viewing the desired media item, and a decryption key that is provided based on a satisfactory evaluation of the business rules in the media pass. As further discussed above, *Harris* does not disclose providing a decryption key based on a media pass. Therefore, *Buxton* in view of *Harris* does not teach or suggest every element of claim 1. At least for the above reason, and potentially for other reasons, claim 1 and its dependent claims 2-5, 7-22, 25-28 are allowable over *Buxton* in view of *Harris*.

Claim 25 further recites:

25. The method of claim 1, wherein the transferring step includes:  
scheduling transfer of multiple media items to the first client from multiple other clients.

Claim 1, from which claim 25 depends, recites the transferring step being "in response to the request." In comparison, paragraph [0031] of *Buxton*, as indicated in page 16, item 63 of the Office Action, discloses selectively choosing titles and movies to be pushed or stored on the local units, based on "accumulated usage statistics." Therefore, *Buxton* schedules the transferring of media in response to statistical predictions based on prior usage. *Buxton* does not schedule the

transfer based on client requests. Thus, *Buxton* in view of *Harris* does not teach or suggest every element of claim 25. At least for this and potentially other reasons, claim 25 is allowable over *Buxton* in view of *Harris*.

With respect to claims 52 and 53, as described above, *Buxton* does not teach or suggest all elements of independent claim 29. Further, *Harris* does not disclose providing a decryption key to the first client based on a media pass. Therefore, *Buxton* in view of *Harris* does not teach or suggest every element of claim 29. Therefore, claims 52 and 53 are at least allowable for depending from an allowable base claim 29, over *Buxton* in view of *Harris*.

Since the Office Action does not provide any reason for the rejections of claims 107 and 108, for any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of Claims 1-5, 7-22, 25-28, 52-53 and 107-108 under 35 U.S.C. 103(a) over *Buxton* in view of *Harris*.

Claims 32-33, 49-51, 56-57, 59-85 and 104-106 are rejected under 35 U.S.C. §103(a) as being unpatentable over Buxton in view of Kleinpeter.

As discussed above, *Buxton* does not disclose a media pass containing business rules for viewing the desired media item, and a decryption key that is provided based on a satisfactory evaluation of the business rules in the media pass, as substantially recited in independent claims 29 and 86. With respect to independent claim 56 and its dependent claims 57, 59-85, claim 56 recites:

56. A method for secure delivery of media content via the Internet, the method comprising:

providing at a server a catalog of media items available in encrypted format from a plurality of devices having broadband connectivity to the Internet;

receiving a priority list from a first device representing a prioritized list of media items requested by the first device from the catalog;

scheduling delivery to the first device of a particular media item on the priority list from at least one second device having an encrypted copy of the particular media item;

transferring an encrypted copy of the particular media item from said at least one second device to the first device;

**in response to a request** to purchase the particular media item transferred to the first device, granting from a media pass server a media pass to the first device, **wherein the media pass contains business rules for viewing the particular media item;**

receiving submission of the media pass from the first device;

**upon a satisfactory evaluation of the business rules in the media pass,** providing a decryption key to the first device based on the media pass submitted by the first device, enabling the encrypted copy of the particular media item to be played at the first device.

*(Emphasis added)*

As discussed above, *Kleinpeter* does not disclose providing a decryption key to the first client based on a media pass. Therefore, *Buxton* in view of *Kleinpeter* does not teach or suggest every element of independent claims 29, 56 and 86. At least for the above reason, and potentially for other reasons, claim 29 with its dependent claims 32-33, 49-51, claim 56 with its dependent claims 57, 59-85, and claim 86 with its dependent claims 104-106 are allowable over *Buxton* in view of *Kleinpeter*.

Claim 76 further recites:

76. The method of claim 56, wherein said step of scheduling delivery includes scheduling a time for delivery of the particular media item to the first device.

Claim 56, from which claim 76 depends, recites scheduling delivery of a particular media item "on the priority list." In comparison, paragraph [0031] of *Buxton*, as indicated in page 25, item 93 of the Office Action, discloses selectively choosing titles and movies to be pushed or stored on the local units, based on "accumulated usage statistics." Therefore, *Buxton* schedules the transferring of media in response to statistical predictions based on prior usage. *Buxton* does not disclose scheduling the transferring based on a priority list. Thus, *Buxton* in view of *Kleinpeter* does not teach or suggest every element of claim 76. At least for this and potentially other reasons, claim 76 is allowable over *Buxton* in view of *Kleinpeter*.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of Claims 32-33, 49-51, 56-57, 59-85 and 104-106 under 35 U.S.C. 103(a) over *Buxton* in view of *Kleinpeter*.

Claims 31 and 88 are rejected under 35 U.S.C. §103(a) as being unpatentable over Buxton in view of Schleicher.

As discussed above, *Buxton* does not disclose a media pass containing business rules for viewing the desired media item, and a decryption key that is provided based on a satisfactory evaluation of the business rules in the media pass. As further discussed above, *Schleicher* does not disclose providing a decryption key to the first device based on a media pass.

Therefore, *Buxton* in view of *Schleicher* does not teach or suggest every element of claims 29 and 86. At least for the above reason, claim 29 with its dependent claim 31, and claim 86 with its dependent claim 88 are allowable over *Buxton* in view of *Schleicher*.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of Claims 31 and 88 under 35 U.S.C. 103(a) over *Buxton* in view of *Schleicher*.

Claims 6 and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Buxton in view of Harris and Kleinpeter.

As discussed above, *Buxton, Harris, or Kleinpeter* does not disclose a media pass containing business rules for viewing the desired media item, and a decryption key that is provided based on a satisfactory evaluation of the business rules in the media pass, as recited in independent claim 1. Therefore, *Buxton* in view of *Harris* and *Kleinpeter* do not teach or suggest every element of independent claim 1. At least for this reason, and possible others, claims 6 and 23-24 are allowable at least for depending from an allowable base claim 1, over *Buxton* in view of *Harris* and *Kleinpeter*.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of Claims 6 and 23-24 under 35 U.S.C. 103(a) over *Buxton* in view of *Harris* and *Kleinpeter*.

Claim 58 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Buxton* and further in view of *Kleinpeter* and *Schleicher*.

As discussed above, *Buxton, Kleinpeter, or Schleicher* does not disclose a media pass containing business rules for viewing the desired media item, and a decryption key that is provided based on a satisfactory evaluation of the business rules in the media pass, as recited in independent claim 56. Therefore, *Buxton, Kleinpeter, or Schleicher* do not teach or suggest every element of claim 56. At least for this reason, and possible others, claim 58 is at least allowable for depending from an allowable base claim 56, over *Buxton* in view of *Kleinpeter* and *Schleicher*.

For any of the reasons described above, Applicants respectfully request the withdrawal of the rejections of Claim 58 under 35 U.S.C. 103(a) over *Buxton* in view of *Kleinpeter* and *Schleicher*.

**Conclusion**

A Notice of Allowance is therefore respectfully requested. Should the Examiner find that a telephone or in-person conference would expedite the prosecution of this Application further, he is invited to contact the Applicants' counsel at the contact listed below for such a conference.

Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 50-2207, from which the undersigned is authorized to draw.

Dated: January 2, 2009

Respectfully submitted,

By:

Jordan M. Becker

Registration No.: 39,602

PERKINS COIE LLP  
P.O. Box 1208  
Seattle, Washington 98101-3099  
(650) 838-4300  
(650) 838-4350 (Fax)  
Attorney for Applicants